

REMARKS/ARGUMENTS

Claims 1, 2, 4, 5, 7-16 and 18-28 are currently pending. Claims 16, 18-20, and 28 are allowed. Claims 11, 13, and 15 are objected-to as depending from a rejected claim. Finally, claims 1, 2, 4, 5, 7-10, 12, 14 and 21-27 stand rejected. By this amendment, claims 4, 5, 7-15, 21, and 23-27 are amended. Claims 1, 2, 3, 6, 17 are cancelled without prejudice.

In the August 18, 2008 Office Action, the Examiner indicated that independent claim 16 (along with its depending claims) was allowable subject matter. Further, claims 11, 13 and 15 were objected-to but would be allowed if re-written in independent form. Claims 11, 13, and 15 have been rewritten to include the limitations of previous parent claims and are now in independent form. All remaining claims have now been cancelled or are now dependent on allowable independent claims 11, 13, 15 and 16.

Claim 4 is amended to depend from Claim 11 and per latest office action, claim 11 is allowable subject matter. A further amendment to claim 4 states that the device may be attached to a helmet or a cap. Support for the added cap limitation is found in the Published Application ¶27 which states that the device may be worn “with regular headwear (i.e, with its upwardly extending end 26 tucked underneath a baseball cap), or in conjunction with a helmet.” Given that claim 4 depends from claim 11 and claim 11 has been indicated to be allowable subject matter, the addition of a limitation in claim 4 regarding caps does not affect the allowability of the pending claims.

Applicant encloses payment (submitted via EFS-Web) for one additional independent claim. The Office is authorized to charge any deficiency or credit any overpayment to the undersigned's Deposit Account No. 501709.

An earnest attempt has been made hereby to respond to the August 18, 2008 Official Action in the above identified matter. Applicant submits that the application is now in condition for allowance. If the Examiner feels that a telephonic interview will

expedite allowance, she is respectfully urged to contact the undersigned. Claims 4-5, 7-16, 18-21, 23-28 are pending. Issuance of the Notice of Allowance is hereby solicited.

Dated: October 20, 2008

Respectfully submitted,

CHERSKOV & FLAYNIK

/Szymon M. Gurda/

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